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ABSTRACT

This report examines tax reform in Vermont. A unanimous state supreme court decision in 1997 ruled that the state's educational finance system was unconstitutional. In response to this ruling, the legislature passed a new statewide property-tax system with two tiers: a block grant of $5,010 per pupil and a guaranteed yield for spending above the block grant. The paper explores the recapture provision of the law, where the state fills in any financial shortage due to lack of local fiscal capacity or recaptures excess revenue and redistributes it through the education fund. It discusses the tax-burden cap of 2 percent of income and discusses how this cap applies to the block grant and statewide property tax. The report then turns to the controversy generated by the new spending plan and how citizens of the wealthier towns in the state have protested against the plan. Issues include litigation and the claim that the state did not have authority to tax locals. A statewide property tax as a possible solution to the controversy is being explored by some as a solution to many problems, such as those presented by communities that circumvent the recapture provision in the law. (RJM)

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SUMMARY

In February, 1997, in a unanimous state supreme court decision, the Vermont educational finance system was declared unconstitutional . Prior to the decision, average town tax burdens ranged between zero and eight percent of income depending on the property wealth of the town.

To meet the court order and to provide property tax relief, the legislature passed Act 60. A new statewide property tax system is phased-in, along with various small dedicated taxes and fees. The system has two tiers:

- A block grant of $5010 per pupil
- A guaranteed yield for spending above the block grant. For FY2000, this guarantee is $40 per pupil for each penny increase in the local property tax.

Recapture - The plan has a straightforward recapture provision where the state fills in any financial shortage due to lack of local fiscal capacity. On the other hand, towns that generate excess funds at the statewide property tax rate see these monies recaptured and redistributed through the education fund.

Almost all towns vote to spend above the block grant level. The recapture provision continues to work in proportion to the amount voted.

Tax Burden Cap - One of the more attractive and novel features of the system is the cap on tax burden at 2% of income. This cap applies to the block grant and statewide property tax portions. If the local town votes higher expenditures, then the cap rises proportionately. Nevertheless, aside from non-homestead property and taxable incomes above $75,000, tax burdens are not higher than 3% of income in any town in the state.

Controversy - The system has spawned considerable controversy -- particularly among the "gold" towns. Many of the more property affluent towns had seen tax rates at less than fifty cents. They were now looking at a statewide property tax of $1.10 plus the amount they voted above the block grant. Needless to say, to have their tax rates astronomically increased to the same levels as the rest of the state was not warmly received. For them, this could mean a doubling or tripling of their low taxes while also having to manage economies in school spending.

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Considering that a number of second home owners held positions with national publications; articles and features in the New York Times, Time Magazine, and the Wall Street Journal castigated the system that caused rich systems to be taxed at the same level as the poor. As one Time magazine reporter said, "It's the first time I've seen the rich rebel against the poor."

Litigation - A host of court challenges were initiated claiming that the state did not have authority to tax locals, recapturing money was an illegal taking of local monies, recapturing thwarted the ability of towns to educate children, and the Declaration of Independence was violated. Of course, the Declaration of Independence had little legal standing but generated considerable media attention.

Three towns refused to remit the recapture funds and the state has brought suit against the towns and the individuals. Other court actions revolve around finer definitional points.

Statewide Property Tax - The statewide property tax was long considered as politically impossibly although endorsed by Governors from both parties across the years. The once unthinkable is now seen as being reasonable especially as contrasted with the political firestorm around the recapture provision.

Circumventing the Recapture - Schools are allowed to accept gifts which are not counted when recapture is calculated. It did not take long for some to figure that "donations," matched with financial support from the Freeman Foundation, would allow rich towns to evade recapture. The amount of the "donation" might prove less than the increased taxes. Whether these foundation funds are a violation of IRS laws, whether the funding definitions will be changed in law, or whether the giving campaign can be sustained over time are all open questions.

Enhancing the Tax Burden Caps - Favorable legislative attention is being paid to increasing the definition of household income, the definition of homestead and the income limit of $75,000. This is politically expedient and can be accomplished without prohibitive financial cost.

The Fall, 1998 elections saw a major assault on Act 60. It was the single most important election issue. Nevertheless, the Senate remained essentially unchanged but the House saw the Democratic majority lessened. Two key House architects of the plan, John Freidin and Paul Cillo, were targeted and defeated. The Governor won on a 58%-42% margin while the Lieutenant Governor, Doug Racine, a staunch reform advocate, squeaked by with a mere 1000 vote statewide margin of victory.

Act 60 continues to be modified and tweaked to make it more responsive to individual problems and concerns. However, no major changes are expected with the current composition of the legislature.

4/1-99 revisions

VERMONT

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I. GENERAL BACKGROUND

A. STATE:

• Trends - Between 1964 and 1997, the state share of basic educational expenditures varied between 20 and 37 percent. Characteristically, the state share would drift down to around 20 percent at which time general dissatisfaction and political pressures would result in a change in the formula and an infusion of new dollars. A spike in state share occurred in 1969 with the adoption of a percentage equalizing formula (Miller formula) based on property wealth. The state share degenerated and a new percentage equalizing formula (Morse-Giuliani) was put into place in 1982 which combined property and income wealth measures. The state share again deteriorated to the 20 percent range and a foundation formula was put into place in 1987.

With a weak economy, the state share again degenerated in both absolute dollars and in state share percentage. By 1997, state share fell to 25.3%. Property tax and educational funding reform emerged as the primary public issue during the mid-1990s. Reform plans would pass the House of Representatives but fail to muster enough votes in the Senate. A plan for a statewide teachers contract (which would fund about 53 percent of the costs from the state) gained momentum but failed enactment.

• Supreme Court Decision - Tax burdens for the various towns ranged from 0.0% to 8.2% of income. Frustrated by legislative inaction, a group of parents, school districts and citizens brought suit against the state (*Brigham v. State of Vermont*). The result of the action was a unanimous state supreme court decision in February, 1997 ruling the funding system unconstitutional. In the immediately preceding November, 1996 elections, a new Senate was elected with an avowed intent of property tax reform.

• Act 60 - On June 26, 1997, Act 60 was signed into law. The new educational finance system had a four year phase-in. The first year of the transition program was the last year of the foundation program which was bolstered by additional general and special education aids.

For FY99, the second of four transitional years, the system provided a first tier block grant of $5010 per student and a second tier guaranteed yield above that level. In essence, a graduated state property tax rate was used along with a sliding scale guaranteed yield. The yield varied according to property wealth. Property poorer towns' had their taxes stepped down while richer towns were stepped up with caps on maximum tax increases. The system recaptures

monies generated when a town's property wealth collects more funds than the guaranteed yield.

For households with less than $75,000 income, education tax burden is capped at two percent of household income unless the local town votes to tax itself at a higher level.

For FY2000, the system moves to a guaranteed yield second tier and an equalized yield is scheduled for 2001.

• The law has generated controversy particularly around the recapture provision. The towns with high property wealth have initiated political and court actions to modify or eliminate recapturing the above yield revenues. Funding of special education, technical education and transportation are under review and possible degeneration of these shares is an issue. Expansions of the tax burden cap to higher income households, protecting small schools from extreme population fluctuations, continuation of a guaranteed yield and the block grant cost of living adjustor are all elements under political consideration.

B. LOCAL:

• Organization - Vermont has 252 town, city and incorporated school districts which are the primary units for educational funding. Except for some categorical funds and grants, all state monies go to the towns. While most towns operate schools, some towns are non-operating and tuition students to other towns under a variety of contractual and voucher arrangements.

In addition, there are 32 union school districts, four unified districts and two joint operating districts. These combinations allow towns to combine resources to provide educational services.

There are 51 supervisory unions where towns share a superintendent of schools, co-ordinate special services, conduct affairs of the the schools, provide curriculum and instructional leadership, and provide other central office functions. There are ten additional superintendencies whose boundaries are contiguous with the boundaries of a single city or town. Union, unified, joint operating, and supervisory unions are financed by assessments to the member towns. County governments play no role in educational funding or governance. There are no intermediate or special services units.

• Funding Sources - With Act 60, a statewide property tax was instituted to equalize the highly unequal local property tax system The statewide property tax ($377 Million), the state general fund ($257.5 Million) and recaptured guaranteed yield funds and Act 60 tax receipts ($88.1 Million) resulted in an 84% state share in FY99. The primary source of local funds is the local property tax. Under an Act 60 temporary transition provision, one town has implemented a local sales tax for FY2000.

• Gifts and Endowments - Many towns have small foundations, bequests and endowments which are not considered as part of school revenues under the state funding system. Historically, these gifts and endowments were a nominal portion of educational funding and the state did not collect information on these revenues. Seeking to escape recapture provisions and the equalized yield

scheduled for FY2001, many of the more affluent towns are combining substantial external foundation grants with local fund raising to avoid sharing what they view as local tax revenues. These efforts are under significant media, legislative, legal and administrative scrutiny.

• Budget Approvals - All town, unified and union school district budgets must be approved by the voters at the annual town meeting. Capital construction, bonded indebtedness and sinking funds must also be approved by the voters. A few city districts operate under individual charters where the budget does not have to be voted as long as it is below the threshold specified in the particular charter.

Supervisory union budgets are determined by delegates from the constituent local boards and assessments are made upon the member towns. Joint operating boards do not have to take their budget to the voters for approval although one of the two joint boards has chosen to do so.

FUNDING SUMMARY (1998-99):

Total State Aid (All Programs)	
Grants in Aid	**$645.2 Million**
Teacher Retirement	**18.1**
FICA (State Share)	**0**
Total Local School Revenue	**$128.3**
Property Tax Revenue	**128.3**
Other Local Revenue	**n/a**
Total Combined State and Local school revenue	**$791.6 Million**
State Financed Property Tax Credits (not included in education fund)	
Property Tax Prebates	**$58.8 Million**
Homeowner or Renter Rebates	**7.7**
Current Use (education)	**not applicable**
Current Use (municipal)	**4.1**
Payment in lieu of taxes	**1.0**
Federal, Transfer, & other non-state or local funds	**$60.0 Million**

(primary source: JFO, 3/12/99)

II. LOCAL SCHOOL REVENUE

Total Local Share Tax Revenues: $128.3 million

About 16 percent of school revenues are raised through local sources which are almost exclusively raised through local property taxes. State revenues are generated by the statewide property tax, income tax, sales tax and a miscellany of smaller taxes and fees.

State and local property taxes are based on per hundred dollars fair market value.

• Local Property Tax - After a local budget is annually established by the voters, the amount of the state provided first tier block grant (general state support grant) is subtracted. The amount of spending above the block grant is then calculated on a per pupil basis. For the FY99 transition year, the above block spending was translated into a sliding scale guaranteed yield which varied as a function of town property wealth per student. The average was about $42 per pupil for each percent increase in the statewide property tax.

For low tax rate towns, incremental tax increases and a maximum tax increase cap were in place. For high tax rate towns, the statewide property tax moved down to $1.15 per hundred dollars property value. The local property tax was added to the state property tax and collected at the town level.

For FY2000, the transitional provisions are removed and a guaranteed yield is set at $40 for each percentage point on the statewide property tax. This translates into $40 for each 1.1 cent on the local property tax. Current law calls for an equalized yield in FY2001 although a guaranteed yield may be enacted.

• Fair Market Value and Common Level of Appraisal - Taxes were assessed and collected on a local basis in FY99. Total town tax liability was adjusted by the town's "Common Level of Appraisal." That is, the market value of properties (based on actual sales) was compared to the local tax lister's value of the property within each category of property (house, mobile home, farmland, etc) and the town's common level of appraisal was determined. Effective tax rates were then computed so that the town paid taxes based on 100 percent of fair market value.

If town officials feel that the state's determination of fair market value is in error, they are provided a thirty day window to appeal to the state for a redetermination.

• Other Local Taxes - As part of the transition provisions in Act 60, local options taxes could be voted to alleviate the effects of property tax increases in wealthier and lower tax towns. To prevent disturbing the recapture provisions of the yield, local option taxes were authorized for municipal purposes only

Authorization for local options taxes expires on December 31, 2001. To date, only one of the 252 towns voted a local sales tax. Whether the local option authorization will be extended beyond FY2001 is not determined.

III. TAX AND SPENDING LIMITS

A. Tax Limits:

• Tax Burden Cap; Property Tax Income Sensitivity "Prebates"- ($85.3 million appropriation, $58.9 Million expenditure) -

For households under $75,000 income, education taxes were capped at no more than 2% of income to support the General State Support Grant (Block Grant). For the 239 towns (95% of the towns) that voted a budget above the block grant amount of $5010 per pupil, the taxes were proportionately higher based on the yield coefficient for that town. Nevertheless, the average total tax burden for education, in almost every town, was below 3% of income. A "prebate" check was issued to homestead owners (house and two acres) to pay for homestead property taxes in excess of the cap. Local towns collected the state and local property taxes in FY99. While the state is scheduled to collect the state and local homestead tax portions in the future, it is expected that this authority will remain with local towns.

• Homeowner or Renter Rebate ("Super Circuit Breaker") - ($7.7 million) - This provision caps the combined education and municipal assessed tax burden at between 3.5% and 5% percent of household income provided that the sum of all household incomes is below $47,000. The limit applies only to homesteads (house and two acres) used as the primary domicile. The lowest increment is a maximum tax of 3.5% for all municipal and education property taxes for incomes of less than $5000. Refunds are provided through filing the annual state income tax form.

• Current Use Program ($4.1 million) - This program was established to protect the environment, the tourist industry, agriculture and the property owner. Oftentimes, the market value of certain farm and forest land is greater for development purposes than it is for its current use.

Taxes are assessed on the lower current use value of the property rather than the higher market value.

For municipal taxes, the state reimburses the town the difference between the use value and the fair market value in a "hold harmless" payment.

Timelines and restrictions apply to prevent exploitation of the program.

• Payment in Lieu of Taxes - ($1,000,000) - State payments to towns in lieu of property taxes for state lands and facilities.

B. Spending Limits:

• Town Meetings - For almost all towns and municipalities, the education budget must be approved at the annual town meeting vote. Bonded indebtedness as well as sinking funds must also be approved by the voters. Twelve cities and large towns have municipal charters which typically allow inflationary increases but require a city vote if a threshold is exceeded.

• Special Education Caps - (a) Districts which exceeded a 5.0 percent increase in spending in FY99 were to have their reimbursements reduced in FY2000. This one-time provision is widely viewed as unrealistic given the huge variations in special education costs. (b) Additionally, the total state appropriation in special education is scheduled to be capped at 5.5% for FY2000 and 4.5% for years thereafter.

A special education cost commission recommended that the legislature repeal the differential reimbursements. There is legislative momentum to delay the implementation of the caps.

• Deficit Spending - School districts may not intentionally deficit spend. If they encounter a deficit, it must be completely recovered in the following fiscal year. The effect is increased spending above the block grant in the following year.

• Fund Balance Accumulations - A positive fund balance is carried as a revenue in the following year's budget. Thus, the revenue is returned to taxpayers as an offset in the following year.

IV. EARMARKED REVENUES

Education Fund - A total of $852.5 million in revenues is projected for the education fund.

• Statewide Property Tax - The largest earmarked contributor is the statewide property tax which provides $377 million. The statewide property tax rate varied in the FY99 transitional year but is moving toward $1.11.

• Act 60 Tax Receipts- ($88.1 million). Monies recaptured from the guaranteed yield are dedicated to the education fund.

All lottery revenues and certain percentages of a number of taxes and fees are dedicated to the education fund. Among these are (1) Rooms, meals, alcoholic beverages (20% of tax revenues minus $1.56 million set aside for tourism), (2) Corporation Income - 19% of these tax revenues, (3) Bank franchise fees - 58.3%, (4) Telecommunications revenues - 100%, (5) Brokerage fees -100%, (6) Motor Fuels - 21% (16% in FY 2000), (7) Purchase and Use - 16.7%

• Non-earmarked sources in the education fund - The general fund initially contributed $224.8 million and an additional $32.7 million was transferred later. Local property taxes added 120.4 million.

Revenues in the education fund exceeded education expenditures by $11.7 million. Certain property tax relief programs and property reappraisal expenditures are supported through education fund revenues.

These funds are paid to local districts and supervisory unions to provide for the General State Support Grant (block grant), each town's guaranteed yield receipts, categorical programs and other provisions.

16 VSA 4025

V. BASIC SUPPORT PROGRAM

A. Nature of the Program - The basic school support program is a two tier system consisting of a block grant and a guaranteed yield with recapture (16 VSA, Chapter 133). Together, these two tiers represent 84 percent of expenditures.

• Tier I: Block Grant - General State Support Grant - ($558.1 million). The General State Support Grant for FY99 was $5010 per equalized pupil which represents 67% of total expenditures.

• Tier II: Guaranteed Yield - ($128.3 million above block spending). This system represents 16 percent of expenditures.

FY 99 was a transitional year toward a FY2000 system with a guaranteed yield of $40 for each locally voted percentage point (1.1 cents) increase in the tax rate. For FY2001, the system is scheduled to go to an equalized yield system.

During FY 99, the yield was a sliding scale averaging about $542 per student. The scale was adjusted according to the ratio of the town's per pupil property wealth as compared to the state's per pupil average.

Towns whose property bases cannot produce the needed level of revenues are made whole by the state. Those towns which produce more than their guaranteed yield pay the difference to the education trust fund.

• Tax Relief Measures - An integral part of the funding and tax mechanism is the elimination of local business taxes on machinery, equipment and inventory. Likewise, the tax burden caps are an essential feature (see Section IIIA). The tax burden cap is considered the single most important feature to assure taxpayer equity.

B. Allocation Units and Weighting Procedures - The allocation unit is equalized pupils. This is determined by counting all students and their extra weights and dividing the number of weighted students by the total number of students.

Long term average daily membership, over two years, is used.

Student Weights include:

Elementary	1.0	
Secondary	1.25	
Economically Deprived	0.25	(times poverty ratio of district)
Limited English	0.20	*16 VSA 4010*

Adult education students may be reimbursed at a fractional 0.1 ADM count.

C. Local Capacity - The remaining 16 percent of expenditures are raised almost exclusively by local property taxes. One town instituted a transitional local property tax. Grants, endowments and other revenues represent a negligible part of local expenditures in FY99. However, there is apprehension that a massive infusion of private grant monies, predominantly to affluent towns, may change these proportions and disrupt the equalized yield.

D. Small Schools Support (Total $979,367, less than 1% of state aids) - There are two programs:

• Small Schools Support - Schools of less than 100 students may receive up to $50,000, not to exceed $2500 per pupil, for operations of small schools. The smaller the school, the higher the support grant ($921,000).
• Small Schools Stability - In addition, small schools which see more than a ten percent decline in enrollment in one year shall not suffer more than ten percent loss in state revenues ($58,367). *16 VSA 4015*

E. Aid Distribution Schedule - All state aids due to local districts are combined in three equal payments. For FY99, the dates were September 1, January 2 and March 30. For FY 2000, the dates move to September 10, December 10 and April 30. *16 VSA 4028*

F. Districts Off-Formula - There are no districts off the formula.

• *Receiving Towns* - Of the 252 towns, 151 are eligible to receive property tax revenue supplements from the guaranteed yield pool (The thirteen spending below the block grant level are not eligible to receive yield funds).
•*Sending Towns* - There are 101 towns that pay larger or smaller amounts into the pool. Of this number, only eight reach the maximum contribution level of half the amount they raised locally from non-homestead property.

VI. TRANSPORTATION

State Appropriation: $10.8 Million
Percent of Total School Aid 1.7%

School districts are not required to provide transportation. If they do, they must adopt policies governing transportation. Money spent for transportation to and from school (excluding cocurricular, technical education, special education and non-resident transportation) is eligible for reimbursement up to 50 percent. For FY99, it is anticipated that the reimbursement rate will be 46%.

An additional $250,000 was set aside for extraordinary circumstances when transportation costs exceeded 8.25% of the total school budget. However, applications for relief totaled only $25,000.

Department of Transportation funds were tapped for these costs although included in the education fund.

A small technical education transportation reimbursement fund operates out of technical education provisions and certain transportation costs are associated with special education.

VII. SPECIAL EDUCATION

State Appropriation	$65.4 million
Mainstream	$25.0 (in GSSG)
Extraordinary and Intensive	$40.4 (formula)
Total Special Education Costs (excluding federal funds)	$107.0 million
Percent of Total State Aid	10.1%
Percent of Special Education Costs	57.13%

It is the "policy of the state to pay 60 percent of the statewide costs expended by special education to children with disabilities." However, the state has seldom met their legislated obligations and the FY99 state share is 57.13%. There is considerable legislative effort to honor this commitment in FY2000.

Special education funding has three primary funding categories:

• Mainstream Block Grant - ($25.0 million). This sum is included in the overall block grant (General State Support Grant) and is not seen in the state appropriation labeled special education. It adds $236 to the General State Support Grant of $5010 for each equalized pupil and brings the total per pupil block grant to $5246.

This portion of the program is census based and is calculated to pay 60% of salaries of 9.75 teachers per 1000 students plus administration. The theory is to place few strings on the local administration of this money so as to allow prevention services for needy children without the necessity of a formal bureaucratic process.

• Extraordinary Reimbursements are designed to reimburse districts for individual high cost children. The state pays 90 percent of all costs above $50,000.

• Special Education Expenditures Reimbursement Grant (known as "intensive reimbursement") - State funds remaining from the total 60 percent commitment, after paying mainstream, extraordinary and other obligations, are then reimbursed to districts at a set statewide percentage rate. The reimbursement share varies with available money.

16 VSA 2961, et seq.

Special education has been the fastest growing area of educational expenditures. Regular education expenses have been held below inflation in order to pay for these increases. As a result, the Blue Ribbon Commission was established to study cost controls and a Fiscal Review Panel was established to improve special education data collection and make recommendations on costs. Cost control caps, at an increase of no more than 5.0%, were imposed for FY2000 but are generally viewed as unworkable due to the wide fluctuations in these costs.

Other funding provisions are made for consultation services for low incidence hearing and visually impaired students. There is a modest reserve

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fund, and other small expenditures. These other provisions do not exceed one percent of total state expenditures.

State Placed Students - See section XII below.

VIII. COMPENSATORY EDUCATION

There is no state compensatory education program, *per se*.

Student Weights - There is an additional student weight of 0.25 provided for "economically deprived" students which is further multiplied by the poverty ratio of the district. Economically deprived is defined through families receiving food stamps. Funds generated through this provision are to be used for pre-school and early education programs although categorical program applications and reports are not required (see Section VB above).

16 VSA 4010

Success Beyond Six - ($6.4 million) Special education funds, matching medicaid and other federal funds may be used "to expand local partnerships to enhance the educational opportunities of students that are at risk of failure in school."

IX. GIFTED AND TALENTED

There is no state funded categorical program or other requirement for local school districts to provide gifted and talented programs although districts make a plethora of local provisions. The legislature adopted a definition in 1995 in order to allow grant applications but expressly noted that an entitlement was not thereby provided. 16 VSA 13

X. BILINGUAL EDUCATION

In 1997, the legislature increased the equalized student count by a factor of 0.2% for those whose primary language was other than English. The state board was directed to adopt rules for "clear and consistent" identification.

16 VSA 4010

XI. EARLY CHILDHOOD EDUCATION

State Appropriation(Essential Early Education):	$3.8 million
State Appropriation(Early Education Initiative):	$1.3 million
Success by Six	$96,000

There are twelve different early education programs that operate out of education, social services, and human services. They are funded by federal,

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state, community and family resources. The above programs represent those funded by state education funds only.

The largest program is the Early Essential Education program which serves special education eligible 3, 4, and 5 year olds. Early Education Initiative serves at risk children. A number of early education programs are operated through Human Services but are not included in the above. *16 VSA 4014*

XII. OTHER CATEGORICAL PROGRAMS

• Technical Education - The state appropriation was $7.8 million (1.2% of state appropriations) which was complemented by $4,856,534 in federal funds. Of the total appropriation of $13.6 million, $12.3 million was distributed in grants to the network of sixteen regional technical centers. Services are available to all secondary school students who elect technical education.

Fundamental changes to the technical education funding system are moving into place for FY2000. Towns within a technical center catchment area will be billed according to their technical education enrollments for the previous six semesters. The General State Support Grant associated with this pupil count is subtracted from the town's state aid and go directly from the state to the technical center. This measure was supposed to encourage technical education enrollments from towns.

Costs above the block grant amount of $5100 per equalized pupil are also assessed on a pro-rated share based on the previous six semester average. These sums are included in local town budgets and are considered expenditures in the guaranteed yield formula.

• State Placed Students - $7.0 million (1% of state appropriations). Funding for excess costs associated with the educational placement of wards of the state. The receiving town derives tuition through the block grant and guaranteed yield. However, any excess special education costs associated with the student are reimbursed at 100% by the state ($4.4 million). Education costs for residentially placed students are funded through education ($2.6 million) while treatment, room and board is paid by the placing human services.

• Adult Basic Education - $2.3 million of state funds plus $706,000 of federal funds. The appropriation has remained relatively stable since 1991. (less than 1% of state appropriations). All citizens have an entitlement to a high school education regardless of age. Adult students can be counted as fractional students (0.1 weight) to pay for adult education programs.

• Small Schools Support Grant - see section VD above.

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XIII. TEACHER RETIREMENT AND BENEFITS

A. State Teachers' Retirement Fund -

Total State Appropriation:	$24.3 million of which
State Contribution to the fund (3.8% of state appropriation)	$18.1 million

The State Teachers' Retirement Fund is operated out of the Office of the State Treasurer rather than the Department of Education. Fund assets were $1.06 billion as of June 30, 1998. Prior to 1990, the system was completely supported through state appropriations.

The primary plan ("Group C") consists of approximately 10,300 practicing and 3200 retired educators. All practicing teachers and administrators must be enrolled in the program.

Group C members contribute 3.7% of their compensation to the fund. Thirty years full service is required to achieve maximum benefits although vesting occurs after ten years service. The maximum retirement allowance is 50% of average final compensation.

Earlier plans (Groups A and B) are closed to new members and currently represent a membership of less than 1000 people, combined.

The plan is supported through state appropriations and employee contributions. No local district funds are involved. The state appropriation is determined by actuarial estimates of financial needs. At different times, the perceived adequacy of the state appropriation has generated controversy. In FY99, the State Treasurer requested $27 million and received $24.3 million. The actuarial rules were last revised in 1997.

16 VSA,Chapter 55

B.Social Security -

The state does not contribute to Social Security payments. Local districts pay the employer share in accord with federal laws.

XIV. TECHNOLOGY

The law (16 VSA 165) requires "access to current technology" and funding is subsumed in the general state support grant and in the guaranteed yield. There was no state categorical appropriation in FY99.

- Technology expenditures are carried in local district budgets in a wide variety of accounts and expenditure codes. Funding is likewise through a polyglot of sources and programs. All districts participate but the level of participation varies greatly.
- Vermont Interactive Television sites allow for statewide teleconferencing for business, education, and other general purposes. The appropriation for this free-standing agency was $763,933.
- Most all high-schools are equipped for satellite reception of lessons with telephone feed-back loops. These facilities were funded in an earlier fiscal year with one-time grants.

• While the Governor and others have consistently advocated for distance learning technology, such desires have not been translated into sustained budget requests or appropriations.

XV. CAPITAL OUTLAY AND DEBT SERVICE

School Construction - $17 million - state appropriation
(2.6% of state aid)

Capital Outlay - Due to construction needs in excess of appropriations, a moratorium was imposed on state funding of capital projects until January 1, 1999. When approved, the state pays 30% of costs. In August, 1998, new rules were imposed which required that projects be rank-ordered by the state board first based on emergency needs and then relative need. The legislature reviews the prioritized needs and decides on what amount they wish to appropriate. As of July 1, 1998, $34 million worth of projects were approved but only $17 million was appropriated.

Debt Service - For FY99, school districts entitled to debt service aid under the previous law were held-harmless at a cost of $3.9 million. For FY2000, debt service costs are part of a school's general expenses and are reimbursed under the guaranteed yield provisions of Act 60. For towns who contribute to the guaranteed yield (recapture), a tax-rate hold-harmless is provided.

The Commissioner of Education was asked to study the system in light of the planned transition from a guaranteed yield to an equalized yield system in 2001. Towns which had been accustomed to a separate categorical fund for bonded indebtedness now see their reimbursements as "buried" which appears as a lost revenue to some citizens. Although held harmless, local controversy has been generated.

Capital construction and bonded indebtedness must be authorized by the electorate. Sinking funds may also be authorized by the electorate for any specified purpose such as maintenance, transportation, etc.

16 VSA,3447 et. seq.

XVI. STANDARDS/ ACCOUNTABILITY MEASURES

State Assessment Appropriation:	State Funds	$2.5 million
	Federal Funds	$148,005

The Equal Education Opportunity Act also included statewide educational standards and accountability features. Most of these measures had pre-Act 60 precursors which were voluntary yet had high statewide participation. The new law requires local districts to participate in a comprehensive assessment program as established by the state board.

16 VSA164(9)

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• Assessments - The state requires *New Standards Reference Examinations* in grades 4, 8 and 11 for language arts and mathematics. Science tests, developed with the Vermont Institute for Science, Mathematics and Technology, are scheduled for grades 6, 9 and 11. *Developmental Reading Assessment* tests are administered in the second grade. The proposed social studies test has been postponed. Local districts generally supplement state measures with commercial norm referenced tests aligned with state standards. The state appropriation and staff complement is generally considered insufficient for the huge scope of work.

• Local Action Planning - Based on local and state assessment results, local districts must establish an *Action Plan* with community input. Annually, the district must report to the public on progress on their Action Plan. The state must also issue a companion report on the condition of education in the state.

Each school must develop a needs based professional development plan while the state board is asked to report to the legislature on the statewide system of professional preparation and development. Likewise, personnel evaluation systems must be linked to school improvement plans

16 VSA 165

XVII. REWARDS/ SANCTIONS

• State Accountability Program - Every two years, the Commissioner must determine if schools are making adequate progress toward meeting their goals. If deficient, the Commissioner must describe in writing the nature of the needs and provide technical assistance. If at the end of the following two-year cycle the school still is not meeting standards, the Commissioner must recommend to the state board whether to continue technical assistance, adjust school boundaries or authorities, assume
control of the district to the degree needed to rectify the problems, or close the school.

• Fiscal Sanctions - There are no fiscal rewards/ sanctions related to performance other than that previously noted for above cap spending in special education. (see Sections IIIB and VII)

XVIII. FUNDING FOR NON-TRADITIONAL PUBLIC SCHOOLS

• Tuition to Public Schools - Beginning in 1869, Vermont has the oldest tuitioning (choice) system in the nation. Arising from late nineteenth century desires to assure the availability of schooling to all children, towns which did not operate schools or were not affiliated with specific schools were required to tuition their students to other schools.

At the elementary level, sixteen districts tuition students to other towns and parents/students may choose the public school of their liking. There are no specific provisions on transportation. Local practices vary. By public vote, towns may tuition to private schools at capped rates.

At the secondary level, 90 of the 251 towns are not affiliated with a union (regional), city or town high school. In these schools, students may choose the public school of their liking and the home town must pay the full tuition up to the

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"maximum allowable tuition" as determined by the state after end of year financial statements are filed. Students may also chose private schools but the tuition is capped at the average public high school rate. Parents must make up any differences and, in most cases, provide transportation.

Many of these tuitioning towns have historical and contractual arrangements with receiving public and "quasi-public academies." (see section XIX below). These arrangements, along with geography and transportation limit the number of effective alternatives.

• Open Enrollment (Public High School Choice) - The legislature asked the state board to develop and present them with a public school open enrollment implementation plan for grades 9 - 12 by January, 1999. Legislative action is not yet completed. An experimental program has operated for two years. A second voluntary regional plan is scheduled for fall, 1999.

• Alternative and Magnet Schools - There is no state program but most regional high schools have developed a variety of alternative programs. These school within a school plans typically center around behaviorally disturbed students and school-to-work transition programs.

• Charter Schools - Although introduced in every recent legislative session, charter schools have, to date, failed passage.

XIX. AID TO PRIVATE SCHOOLS

There are several combinations that have nineteenth century antecedents:

• The Quasi-Privates - There are five quasi-private "Academies," enrolling about 3000 students; all of which pre-dated current political privatization initiatives. These have historically served as the high schools for their regions and typically were founded as religious schools. These schools chose to secularize their curriculum and continue to receive public monies after a 1961 state supreme court case. They have chosen to meet state standards but do not have publicly elected governing boards.

One of these schools has recently announced that they intend to become truly private and thus, can choose which students to accept as well as deviate from state and federal requirements such as special education.

• Public Tuition to Private Schools (see Section XVIII, above) - Towns that do not operate schools may tuition to private schools but the amount paid is limited to the average announced tuition of public schools. Costs in excess of the cap are the responsibility of the parents. While the private schools have to be nominally approved by the state, there are no requirements on private schools regarding special education or admissions. Parents have taken this voucher out of state and out of the country.

For elementary tuition, this provision requires a positive vote of the electorate. Secondary tuition does not require electorate authorization in non-operating towns.

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• Tuition to Religious Schools - The non-operating town of Chittenden is currently before the state supreme court asking to be allowed to pay tuition to religious schools while the town of Mendon is in the same court for refusing to pay religious tuition. The court has heard arguments but has not rendered a decision. The case is being litigated on both federal and state constitutional grounds. The Chittenden school board composition changed and they directed the Washington based Institute for Justice attorneys to cease speaking or advocating for religious based tuition.

XX. LITIGATION

• The seminal decision was *Brigham vs. the State of Vermont* which found the state funding system unconstitutional on the basis of not providing equal educational opportunities. Amanda Brigham, a student in Whiting, along with other students, parents, citizens and town school districts brought suit that they were being deprived by an inequitable finance system.

The unanimous decision was handed down on February 5, 1997 and lead to the Equal Educational Opportunities Act (Act 60). The court directed the finance system to be reformed.

• Following the legislative response to the court decision, residents in some property-wealthy towns who now faced taxes at the same rates as those in property-poorer towns brought a plethora of actions claiming that the legislation was flawed and worked against them. The first of these to be ruled on by the Supreme Court, *Stephens vs. State of Vermont*, contest that the recapture provisions of the guaranteed yield depressed educational spending in affluent towns and was thus, unconstitutional. The Supreme Court dismissed the case on December 23, 1998. Two other cases have since ben brought to the Supreme Court and denied.

• Treasurers in three towns (Searsburg, Whitingham and Dover) refused to remit statewide property tax and guaranteed yield revenues to the state. The state has now sought a court order to have the funds paid to the state.

• One affluent town, Sherburne, is contesting the definitions and legislative intent of tax caps in the courts.

• Payment to Religious Schools - (see Section XIX above)

XXI. Special Topics

Act 60 has generated considerable controversy which has often spilled into national publications. Many actions are being taken to circumvent or repeal aspects of Act 60.

• Circumventing the Recapture Provisions - Wealthy towns, seeking to escape paying taxes at the same rates as poorer towns, have established local funds and turned to major foundations to set up large parts of their education budgets "off the books." The Freeman Foundation, in particular, has sufficient resources that it may fund all above block spending in some wealthy

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communities and thus deny recapture by the state. In a guaranteed yield system, general state taxes would have to pick up the short-fall. In an equalized yield, the local towns would have to pay the costs denied through the philanthropic efforts. Debates continue on whether and how this escape route should be closed.

• Tax Cuts - With the current robust economy, the education fund and the general fund have excess revenues. The Governor wishes to cut the income tax while legislators wish to further reduce property taxes and/or exempt clothing and other necessities from the sales tax. The wisdom, size and type of tax cuts are yet to be determined.

• Medicaid Reimbursements - Medicaid funds are an increasing revenue stream. The Agency of Human Services, which controls the record-keeping system, has appropriated 60% of medicaid reimbursements generated by schools. Most states appear to return most or all of these reimbursements to the generating schools. Considerable debate and contention has surrounded this issue.

• Relieving the Tax Burden Cap - Homestead property tax burden is capped at 2% of household income, up to $75,000, for the statewide property tax. As towns vote themselves a budget higher than the block grant amount per pupil, the cap goes up proportionately. There is strong political interest in raising the income limit or removing the limit completely. Consideration is also being given to expanding the homestead definition beyond a house and two acres so that all (or a greater share) of real estate would be sheltered.

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